



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/597,158

07/13/2006

Keit Wagener

72280

6905

23872 7590 08/27/2010
MCGLEW & TUTTLE, PC
P.O. BOX 9227
SCARBOROUGH STATION
SCARBOROUGH, NY 10510-9227

EXAMINER

ALLEN, JEFFREY R

ART UNIT

PAPER NUMBER

3781

MAIL DATE

DELIVERY MODE

08/27/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/597,158	Applicant(s) WAGENER ET AL.	
	Examiner JEFFREY ALLEN	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 8-12, 14-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yokochi et al. (U.S. Patent No. 6,123,216) in view of Robinson (WO 92/06324).

3. Regarding claims 1-6 and 8, Yokochi discloses a tank for oils or liquids comprising a tank part (1) having a tank volume, a fastening means (81) capable of fastening the tank to a surface of a motor vehicle made up of screw connections that pass through the tank volume in a leak proof manner with a portion of the screw connections are spaced from the tank part, ducts (d, Fig. 2 below labeled by examiner) formed by an inner surface integrally formed with the tank part (abstract) extending continuously within the tank part on an outer circumference of the tank part that screws extend through, a tank cover (col. 4, lines 16-18), a filler neck (23) and two connection pipes (73 and 76). The ducts have a dimension that is less than a dimension of the depth of the tank and recesses are provided on the circumference of the tank, this creating a space between the ducts and the tank cover (Fig. 4), the ducts further having one or more inner surfaces having a first length section and second length section,

Art Unit: 3781

wherein the first length section has a greater diameter than the second length section and a stepped portion connects the length sections with the screws being in contact with the stepped portion. The screws are premounted on the tank prior to use and an end of the each of the screws is spaced from the tank part walls and located outside the tank volume (Fig. 6) so that the tank can be mounted. The tank further providing positioning aides (p) located on an outer surface of the tank part in an area of first and second ducts.

FIG. 2

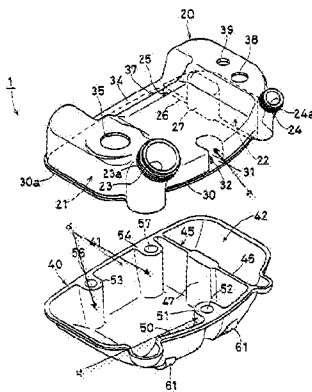
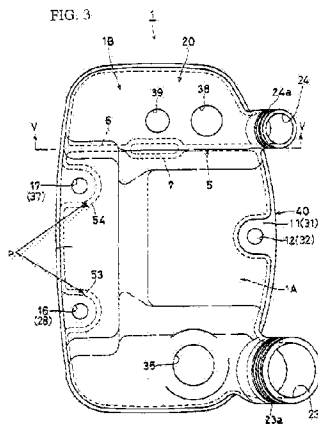


FIG. 3.



Art Unit: 3781

4. Yokocho fails to teach wherein the fastening means and ducts are surrounded by the tank volume such that they are spaced from the wall, and wherein one end of the fastening means is surrounded by the tank volume.

5. Robinson teaches that it is known in the art to manufacture a tank with fastening means (20) that are spaced from the tank wall and surrounded by the tank volume (Fig. 2).

6. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the fastening means and ducts so that they were surrounded by the tank volume, in order to make the screws harder to access thereby making it harder to tamper with the tank and since it has been held that rearranging parts of an invention involves only routine skill in the art. When the fastening means and ducts are surrounded by the tank volume the top end of the fasteners would also be surrounded by the tank volume since the head of the screw is recessed with respect to the top of the tank (Yokocho, Fig. 6)

7. Regarding claims 9-12 and 14, Yokocho discloses all the claimed limitations as shown above and a tank base (40) and tank cover (20).

8. Regarding claims 15-18 and 20, Yokocho discloses all the claimed limitations as shown above and wherein all the tanks parts are integrally formed (abstract).

Art Unit: 3781

9. Claims 7, 13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above and further in view of Alleaume (U.S. Patent No. 3,511,003).

10. The modified tank of Yokochi discloses all the claimed limitations as shown above but fails to teach that the screws are sealed by a weld seam.

11. Alleaume teaches that it is known in the art to manufacture a container for fluids wherein the screws are sealed by a weld seam (col. 9, lines 40-42).

12. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have manufactured the screws of Yokochi with weld seams, as taught by Alleaume, in order to better seal the container and to prevent rotation, thus efficiently avoiding any undesired unscrewing due to shaking and vibration.

Response to Arguments

13. Applicant's arguments filed 4/16/2010 have been fully considered but they are not persuasive.

14. In response to applicant's argument that the references as a whole are not concerned with mounting a tank in a small area, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

15. Regarding applicant's argument that the references fail to teach wherein the fastening means are located within an impermeable duct surrounded by the tank

Art Unit: 3781

volume, it is noted that Yokochi teaches fastening members located within an impermeable duct located on the periphery of the tank. If the ducts were modified so they were located at different portions on the tank, as shown in the rejection above, the fastening members would be located within an impermeable duct surrounded by the tank volume. It would have further been obvious to one of ordinary skill in the art at the time the invention was made to have located the ducts anywhere on the tank since it would have been "obvious to try", choosing from a finite number of locations with a reasonable expectation for success.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 6,892,572 to Breed et al. discloses a fuel tank with mounting devices located in central portions of the tank.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3781

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY ALLEN whose telephone number is (571)270-7426. The examiner can normally be reached on Monday through Friday 8:00 AM TO 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. A./
Examiner, Art Unit 3781

/Anthony Stashick/
Supervisory Patent Examiner, Art
Unit 3781